

REMARKS

Applicant has amended the specification to insert the headings suggested by the USPTO Guidelines.

Applicant has amended claim 4 to overcome the objection thereto.

Claims 1 and 5-8 were rejected under 35 U.S.C. § 102(b) as being anticipated by Baum (WO '992).

Claims 2, 3 and 4 were rejected under 35 U.S.C. § 103(a) as being unpatentable (obvious) over Baum '992 in view of Wong (WO '790).

Applicant respectfully traverses these two rejections, and requests the Examiner to reconsider and withdraw these rejections.

Claim 1 has been canceled and its limitation incorporated into the dependent claim 7 (7/1) which has been rewritten in independent form. Claims 2-6 are, or have been amended to be, either directly or indirectly dependent on the new independent claim 7 (7/1), and claim 8 has been canceled.

Thus, the two statutory rejections have been rendered moot, **except** for the rejection of claim 7 (7/1) under 35 U.S.C. § 102(b) as being anticipated by Baum '992.

Such a rejection requires that Baum disclose, either expressly or inherently, each limitation/feature of claim 7 (7/1), or in other words, that the amended (independent) claim 7 be readable on Baum's disclosure. Applicant respectfully submits that clearly such is **not** the case here.

More specifically, claim 7 is clearly limited to a "method of replacing a radio relay... comprising the steps of: replacing said radio relay by an aircraft..., and taking said aircraft to an

altitude and a position such that said transceiver means lies in the same direction, relative to at least user of said telecommunications network, as said replaced relay, with operation between said transceiver means and said user being performed via an existing interface, thereby avoiding the need to modify the pointing of an antenna of said user".

Applicant has reviewed Fig. 2 and the passages (page 1, lines 1-13, page 2, lines 27-32, page 3, lines 1-15, and page 3, lines 22-29, page 4, line 5-page 5, line 20) on which the Examiner relies, but Applicant finds nothing in Baum which would "anticipate" (or even suggest) the "method of replacing" as defined in the independent parent claim 7.

While Applicant admits that Baum discloses only the very broad concept of a radio relay station positioned in the stratosphere, Baum (and Wong) does not teach or even remotely suggest the "method of replacing..." as defined in claim 7 (and as further defined in its dependent claims 2-6). The "remarkable" advantage of the method defined in claim 7 and its dependent claims is described in Applicant's specification at page 5, lines 8-28. Also, see page 8, line 24, to page 9, line 7.

Therefore, since Baum does not disclose, either expressly or inherently, each limitation of claim 7, or in other words, since claim 7 is not readable on Baum's disclosure, Applicant respectfully submits that Baum is **incapable** of "anticipating" claim 7, whereby Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claim 7 under 35 U.S.C. § 102(b) as being anticipated by Baum.

As pointed out above, claims 2-6 are either directly or indirectly dependent on the (allowable) claim 7, and claims 1 and 8 have been canceled.

Even though Wong discloses the broad concept of using the surrounding (atmospheric) air to form a plasma for use in positioning a lighter-than air platform, Applicant does not claim such a broad concept, *per se*, but only in the combination recited in claim 7 and its dependent claims.

Thus, and because of the above-noted deficiencies in the disclosure of Baum, the combination of Baum and Wong would not provide *prima facie* obviousness of the subject matter of claim 7 and its dependent claims. Furthermore, even if, for some unknown reason, a person were to combine the teachings of Baum and Wong, there would not be produced the subject matter of claim 7 and its dependent claims, or subject matter which would have rendered these claims obvious.

In conclusion, then, Applicant respectfully requests the Examiner to reconsider and withdraw the rejections under 35 U.S.C. § 102(b) and 103(a) and to find the application to be in condition for allowance with claims 2-7. If, for any reason, the Examiner feels that the application is not now in condition for allowance, the Examiner is respectfully requested to **call the undersigned attorney** to discuss any unresolved issues and to expedite the disposition of the application.

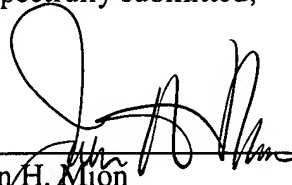
For the Examiner's information, Applicant notes that claims substantially corresponding to claims 2-7 have been granted in the counterpart (published) European application No. EP 00 401 738.0.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to Deposit Account No. 19-4880. The Commissioner is also authorized to charge any additional fees

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. APPLN. NO. 10/009,573

under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and
Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

Respectfully submitted,



John H. Mion
Registration No. 18,879

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213
(202) 663-7901

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: September 27, 2004